

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,

Plaintiff,

v.

_____,
Defendant.

Case No. CR35-____ - _____

**DUI COURT AGREEMENT AND
ORDER ADMITTING DEFENDANT**

Defendant has waived his/her rights and has pleaded guilty and/or admitted to violating probation or parole. Defendant and Defendant's counsel apply for and agree to Defendant's admission into the Nez Perce County DUI Court: [] as an alternative to sentencing, subject to the terms and conditions of probation. **OR** [] as a condition of probation.

Defendant must initial each paragraph where indicated by [].

I. AGREEMENT

In addition to the Court's Judgment and terms and conditions of probation, Defendant hereby understands and agrees:

1. [] To follow all rules and requirements of the DUI Court program, including those set forth in this Agreement, as well as those set forth in the Nez Perce County DUI Court Handbook, as well as in any supplemental agreement or order including probation agreement of supervision.
 - ☐ Defendant agrees to comply with the Idaho Department of Corrections Agreement of Supervision for the duration of the program including the six month supervised aftercare portion of the program.
 - ☐ Defendant agrees to comply with the Justice Services Misdemeanor Probation Agreement of Supervision for the duration of the program including the six month supervised aftercare portion of the program.
2. [] The rules, requirements, probation terms and conditions, and Termination Policy may be modified at any time by the Court.
3. [] The Court may sanction Defendant for failing to follow any rule or failing to complete any requirement, and that a sanction may include, but is not limited to, incarceration, revocation of any custody release, modification of the program requirements, performance of community service, removal of privileges, and/or termination from the program.

4. ☐ Upon termination, the Court may impose sentence as provided by law.
5. ☐ To participate in and complete any required treatment and/or education program.
6. ☐ To pay a non-refundable participation fee in the amount of \$1,000. If Defendant is terminated from the program for any reason, any remaining balance will still be due and owing.
7. ☐ The duration of participation in the program is designed to be a minimum of seventeen months, with five phases, plus a supervised continuing care probation for six months. The Court may, in its discretion, shorten the program or extend the program to provide additional time for Defendant to successfully complete the program requirements.
8. ☐ To reside in Lewiston, Nez Perce County, Idaho, and not change residence without first obtaining written permission.
9. ☐ To have any judge designated by the District Court, the Administrative District Court, or the Supreme Court preside over DUI Court, including termination proceeding, probation hearing, sentencing, or other aspect of the case.
10. ☐ Defendant may withdraw from the program upon request and approval of the Court and, upon approval, may have sentence imposed.
11. ☐ To the release of all treatment information, including medical, prescriptions, substance abuse, and mental health conditions and treatment, to Defendant's attorney, the prosecuting attorney, the Court, the DUI Court team members, the Idaho Department of Probation and Parole, and/or Justice Services. Defendant agrees to sign and not revoke any additional consent needed for disclosure of such information.
12. **WAIVER:** Defendant, after consultation with counsel, voluntarily waives the following rights:
 - a) ☐ To have a Court Reporter present during DUI Court sessions.
 - b) ☐ To personally participate in DUI Court staffing meetings.
 - c) ☐ To have Defendant's personal attorney represent them in DUI Court.
13. **DISPOSITION:** Please see Treatment Court Disposition Agreement separately filed.

II. TERMS AND CONDITIONS

1. ☐ **Laws and Cooperation:** Defendant shall respect and obey all city, county, state and federal laws and have no new law violations (other than a traffic infraction as defined by the State of Idaho), and shall comply with all lawful requests of his/her supervising probation officer. Defendant shall obey all orders of the Court (including written orders and directives, and instructions given orally by the Judge in court) and any orders or directive of the probation officer. Defendant must report all law enforcement contact of any nature to Defendant's probation officer within twenty-four (24) hours of contact.
2. ☐ **Attendance and Participation:** Unless given written permission otherwise by Defendant's probation officer, Defendant shall attend all court hearings, attend and fully participate in all treatment sessions and any required treatment, and submit to tests for prohibited substances.
3. ☐ **Disruption:** Defendant shall not disrupt DUI Court, treatment sessions, or any activity associated with DUI Court.
4. ☐ **Causing Harm:** Defendant shall not cause or threaten harm to any person, including to self.
5. ☐ **Failure to Meet Requirements:** Defendant shall not engage in any action or circumstance that is inconsistent with, or indicate Defendant is failing to meet, the DUI Court goals, requirements, and conditions.
6. ☐ **Gambling:** Defendant shall not participate in any form of gambling, gaming, betting, or lottery, including via electronic means, whether or not money or goods are wagered, spent, or received, and irrespective of whether such activities are allowed by law.
7. ☐ **Residence:** Defendant shall reside within the city limits of Lewiston, Idaho, at all times while participating in DUI Court (phases 1-5). Defendant shall not change his/her residence without first obtaining permission from his/her probation officer.
8. ☐ **Travel:** Defendant shall not leave his/her assigned probation district, without first obtaining written permission from his/her probation officer.
9. ☐ **Curfew:** Defendant shall comply with all curfews established by the DUI Court Team, probation officer, or DUI Court Coordinator, and be available for curfew checks at all times. Defendant shall not be out past curfew without prior permission of the probation officer.

10. ☐ **Reporting:** Defendant shall contact Justice Services staff within 24 hours of admission to DUI Court, and shall report in person as directed by probation. Defendant shall submit written, truthful reports to the probation officer and/or the DUI Court at least once per month and at all other times as requested by the probation officer or the Coordinator. Probation and the DUI Court must at all times have Defendant's current contact information, including residence and employment addresses and phone numbers, cell phone numbers, and email addresses. Progress reports, including pay stubs, shall be provided as requested by the Coordinator and Court.
11. ☐ **Employment:** Defendant shall seek and maintain gainful employment as directed by the DUI Court Team, and, once such employment is secured, shall not change that employment or cause that employment to be terminated without first obtaining written permission from his/her supervising probation officer.
12. ☐ **Community Service:** Defendant may also be required to perform community service by the Court, probation officer, or DUI Court Coordinator and, before performing such service, must pay \$.60 per hour through the Court for worker's compensation insurance.
13. ☐ **Education:** If ordered by the Court, Defendant shall obtain a GED, high school diploma, or attain any other educational goal within the timeline specified by the Court. Defendant shall provide to the DUI Court Team all requested GED classes and tutoring schedules and GED test results.
14. ☐ **Alcohol:** Defendant shall not consume or possess alcoholic beverages in any form and shall not enter upon any establishment where the sale of alcohol for consumption on the premises is a primary source of income, including bars and liquor stores. Defendant shall not have alcohol in their residence.
15. ☐ **Controlled Substances:** Defendant shall not use or possess any controlled or mind-altering substance listed as such under Idaho law unless lawfully prescribed for his/her use by a licensed physician, dentist, or other healthcare provider. Defendant shall not use any prescribed controlled substance except as specifically prescribed. Marijuana is a controlled substance, even if Defendant is in a state where marijuana is legal for recreational use. Defendant shall not use or possess any other substances prohibited by the DUI Court Team.
16. ☐ **Medical, Dental, and Other Healthcare Providers:** Defendant shall advise any medical, dental, or other healthcare provider, prior to obtaining a prescription, that Defendant is a participant in DUI Court and is prohibited from possessing and consuming certain substances. Defendant shall obtain the provider's signature on Defendant's medical card and show the card to the DUI Court Coordinator. Before consuming prescribed medication (or, if the medication must be immediately taken, as soon as practicable afterwards), Defendant shall inform the probation officer, treatment provider, or the DUI Court Coordinator.

17. [] **Drug and Alcohol Testing:** Defendant shall submit to tests of his/her breath, bodily fluids, hair, or other analysis for traces of alcohol, or controlled or prohibited substances at Defendant's own expense whenever requested by the supervising probation officer, the probation officer's designee, or any law enforcement officer. Defendant will be required to call the drug testing line at all times required and comply with testing requirements. Household members may be subject to drug testing at the request of the team. If household members refuse drug testing, Defendant may be required to move from that residence. Defendant is responsible for the cost of household member testing, to not exceed \$10 per test.
18. [] **Affecting Test Results:** Defendant shall not use or possess any substance or device, or employ any method, to alter or affect test results for prohibited substances. Defendant shall not use or consume, without prior approval by a treatment provider or probation officer, any substance, even a legal substance, that could affect or show a positive result in any test for alcohol, drugs, or other prohibited substances. An extensive list of substances that could show a positive result will be provided to you.
19. [] **Counseling/Treatment:** Defendant shall participate and cooperate in counseling and/or treatment as recommended by evaluation or deemed appropriate by the DUI Court Team, including, but not limited to, individual, group, family, anger management, mental health, substance and alcohol use or abuse, community-based drug and alcohol support groups, and domestic violence. If prescribed medication is part of treatment, Defendant shall take medication as prescribed until the treatment provider determines it is no longer necessary. Medication requirements may be monitored by the probation officer and treatment providers, with appropriate release of information to be signed by participant as directed.
20. [] **Weapons:**
- ☐ Defendant has pled guilty to a felony, therefore Defendant shall not purchase, carry, or have in his/her possession any firearms, ammunition, or weapons.
 - ☐ Defendant has pled guilty to a misdemeanor, therefore Defendant shall not purchase, carry or have in his/her possession any firearms, ammunition or weapons other than for archery hunting.
21. [] **Search:** Defendant shall submit to a search of his/her person, vehicle, residence, cell phone, computer, and/or property conducted in a reasonable manner and at a reasonable time or times by his/her supervising probation officer or the probation officer's designee, whether or not there is probable cause or reasonable suspicion that Defendant has committed a crime, has violated a term of probation, or has violated conditions of DUI Court.

22. [____] **Payments:** Defendant shall:

- Pay program fees in the amount of \$1,000.00, to be paid in regular installments of \$60 per month (or at least \$100 during phase 1, \$150 during phase 2, \$250 during phase 3, \$250 during phase 4 and \$250 during phase 5), or such other payment schedule as directed by the Court, plus any other fees or amounts assessed by the Court, including costs of supervision. These fees need to be paid in full prior to completing DUI Court.
- Pay court costs in the amount of _____ and pay restitution in the amount of _____ to _____.
- Pay such additional costs assessed, as directed by the Court, including, but not limited to, worker's compensation fee, confirmation drug testing, SCRAM, GPS, missed appointments and cost of treatment assessed by Justice Services.

The total of such sums shall be paid to the clerk of this Court on a reasonable schedule to be set by Defendant's probation officer or the DUI Court. To the extent that Defendant's probation officer does not establish and enforce a reasonable payment schedule, the Court will determine a reasonable amount of payments. In any event, all such sums shall be paid in full no later than thirty (30) days prior to Defendant's release from probation. All payments shall be made by cash, debit or credit, cashiers or certified check or money order, and no personal checks will be accepted.

In the event court costs and restitution have not been paid in full prior to completion of DUI Court, Defendant may remain on probation to the Court until court costs and restitution amounts are satisfied.

23. [____] **Costs of Probation Supervision:**

- ☐ If Defendant is supervised by the Idaho Department of Corrections, Defendant shall comply with Idaho Code Section 20-225 by paying a fee of not more than \$ 75.00 per month to the Idaho Department of Correction, to help defray the costs of his/her probation supervision at such times and in such actual amounts as his/her probation officer may direct.
- ☒ Defendant shall comply with Nez Perce County Justice Services probation supervision agreement by paying a fee of not more than \$35 per month to Justice Services, to help defray the costs of his/her probation supervision at such times and in such actual amounts as his/her probation officer may.

24. [____] **Associations:** Defendant shall not associate with any person with whom his/her supervising probation officer or the DUI Court Team directs him/her not to associate. Defendant shall not go to or remain at any place where Defendant knows or should know that alcohol, drugs, paraphernalia, or illegal contraband are being stored, possessed, or consumed.

25. ☐ **Social Media:** Defendant's social media accounts may be monitored by probation, treatment, or the DUI Court Coordinator. If inappropriate behavior occurs, Defendant may be required to delete the accounts.
26. ☐ **Termination of Probation:** Probation has been ordered for a specific length of time; however, probation shall not be terminated until the court has both reviewed the performance of the probationer and has signed an order discharging the probationer, if applicable. Probation is subject to extension for non-payment of costs, fines, restitution, or unsatisfactory performance.
27. ☐ **Honesty:** Defendant shall be completely honest with the Court and any member of the DUI Court Team, including a probation officer or treatment provider.
28. ☐ **Driving Privileges:** Per Idaho Code 18-8005(7), Defendant may apply for a restricted driving permit after 45 days from the date Defendant signed DUI Court contract or after 45 days of absolute suspension, whichever is greater, for the purposes of getting to and from work, school or an alcohol treatment program, so long as there is a state-approved ignition interlock system installed in the vehicle, and the Defendant has shown proof of financial responsibility per Idaho Code 49-117. If restricted permit is granted by the court, Defendant understands and agrees the driving privileges will not be fully reinstated until one (1) year in the program or when Defendant reaches phase 5, whichever is greater. Defendant further agrees to maintain the ignition interlock device for an additional one year after the DUI, ALS or refusal suspension ends.

III. TERMINATION

The decision whether or not to recommend termination of Defendant from the DUI Court program rests solely with the DUI Court Judge, guided by input from Defendant, defense counsel, the prosecuting attorney, and other members of the DUI Court Team. Upon the Court's recommendation for termination, Defendant is entitled to a due process hearing and, to have the hearing presided over by a judge other than the DUI Court Judge. Upon discussion with counsel, Defendant may waive the due process hearing.

If Defendant is on probation, the due process hearing may be combined with the evidentiary and disposition hearing for the probation violation. Termination from DUI Court will become effective upon the actual disposition of the probation violation. Until then, Defendant must comply with all conditions of the DUI Court program and remain subject to sanctions.

If Defendant has pleaded guilty but has not been sentenced (i.e., "direct admission" or withheld judgment), upon termination Defendant may be sentenced. If Defendant has already been sentenced, upon termination the sentence may be imposed. The termination from DUI Court will be effective upon the actual imposition of sentence, and until then, Defendant must comply with all conditions of the DUI Court program and remain subject to sanctions.

DATED this ____ day of _____, 20____

Defendant

Counsel for Defendant

ACCEPTANCE OF TERMS AND CONDITIONS

I acknowledge that I have read, fully understand, am able to comply with, and accept all the terms and conditions of DUI Court set forth above.

Defendant (Date

BASED UPON THE AGREEMENT OF DEFENDANT AND THE STATE, AND GOOD CAUSE APPEARING, IT IS ORDERED THAT DEFENDANT'S ADMISSION INTO THE NEZ PERCE COUNTY DUI COURT PROGRAM IS APPROVED.

DATED this ____ day of _____, 20____.

DUI Court Judge

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing DUI COURT APPLICATION AND AGREEMENT; DEFENDANT'S WAIVER OF RIGHTS; AND ORDER ADMITTING DEFENDANT INTO DUI COURT PROGRAM was delivered by PDF email to:

ATTORNEY FOR DEFENDANT
NEZ PERCE COUNTY PROSECUTING ATTORNEY
PROBATION OFFICER
DUI COURT COORDINATOR

DATED: _____.

Deputy Clerk